In the Office Action, claims 7-12 were rejected under a single new grounds of rejection. More specifically, the pending claims were rejected under 35 U.S.C. § 102(e) as unpatentable over U.S. Patent No. 5,693,522 (Chada et al.). This rejection is respectfully traversed.

The basis for the rejection is that claims 7-9 were viewed as reading on the entire HER-2/*neu* sequence, the use of which is said to be taught by Chada et al. As recited above, claims 7-9 (and therefore claims 10-12 which depend therefrom) have been amended to exclude the full length HER-2/*neu* sequence. Accordingly, as amended claims 7-12 expressly exclude use of the entire HER-2/*neu* sequence, amended claims 7-12 distinguish patentably over Chada et al.

Therefore, Applicants believe that the rejection of claims 7-12 under 35 U.S.C. § 102(e) has been overcome. Withdrawal of this rejection is respectfully requested.

Therefore, in light of the amendments and remarks set forth above, Applicants believe that the Examiner's sole remaining rejection of the pending claims has been overcome. Reconsideration of the application and allowance of all pending claims (7-12) are respectfully requested. If there is any further matter requiring attention prior to allowance of the subject application, the Examiner is respectfully requested to contact the undersigned attorney (at 206-622-4900) to resolve the matter. Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "**Version With Markings to Show Changes Made**."

Respectfully submitted,
Seed Intellectual Property Law Group PLLC

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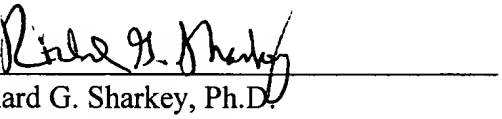
PATENT TRADEMARK OFFICE



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Enclosures:
Postcard
Extension of Time (+copy)

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Claim 7 has been amended to read as follows:

7. (Four Times Amended) A method for eliciting or enhancing an immune response to HER-2/*neu* protein, comprising administering to a warm-blooded animal in an amount effective to elicit or enhance said response a nucleic acid molecule or a viral vector wherein the nucleic acid molecule or the viral vector directs the expression of a polypeptide encoded by a DNA sequence selected from:

(a) nucleotides 2026 through 3765 of SEQ ID NO:1; and

(b) DNA sequences that hybridize to a nucleotide sequence complementary to nucleotides 2026 through 3765 of SEQ ID NO:1 under moderately stringent conditions, wherein the DNA sequence encodes a polypeptide that produces an immune response to HER-2/*neu* protein and whose entire amino acid sequence is from HER-2/*neu* protein and which is at least approximately the same length as the polypeptide encoded by the DNA sequence of (a), with the proviso that the polypeptide of (b) is not intact HER-2/*neu* protein.

Claim 8 has been amended to read as follows:

8. (Twice Amended) A method for eliciting or enhancing an immune response to HER-2/*neu* protein, comprising transfecting antigen presenting cells of a warm-blooded animal *ex vivo* with a nucleic acid molecule and subsequently delivering the transfected cells to the animal in an amount effective to elicit or enhance said response, wherein the nucleic acid molecule directs the expression of a polypeptide encoded by a DNA sequence selected from:

(a) nucleotides 2026 through 3765 of SEQ ID NO:1; and

(b) DNA sequences that hybridize to a nucleotide sequence complementary to nucleotides 2026 through 3765 of SEQ ID NO:1 under moderately stringent conditions, wherein the DNA sequence encodes a polypeptide that produces an immune response to HER-2/*neu* protein and whose entire amino acid sequence is from HER-2/*neu* protein and which is at least

approximately the same length as the polypeptide encoded by the DNA sequence of (a), with the proviso that the polypeptide of (b) is not intact HER-2/*neu* protein.

Claim 9 has been amended to read as follows:

9. (Twice Amended) A method for eliciting or enhancing an immune response to HER-2/*neu* protein, comprising infecting antigen presenting cells of a warm-blooded animal *ex vivo* with a viral vector and subsequently delivering the infected cells to the animal in an amount effective to elicit or enhance said response, wherein the viral vector directs the expression of a polypeptide encoded by a DNA sequence selected from:

~~(a) nucleotides 2026 through 3765 of SEQ ID NO:1; and~~

(b) DNA sequences that hybridize to a nucleotide sequence complementary to nucleotides 2026 through 3765 of SEQ ID NO:1 under moderately stringent conditions, wherein the DNA sequence encodes a polypeptide that produces an immune response to HER-2/*neu* protein and whose entire amino acid sequence is from HER-2/*neu* protein and which is at least approximately the same length as the polypeptide encoded by the DNA sequence of (a), with the proviso that the polypeptide of (b) is not intact HER-2/*neu* protein.